

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

MARK WESTBROOK WILDER,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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6:16-CV-060-RP

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge Jeffrey C. Manske (Dkt. 14). The case was referred to Judge Manske for a Report and Recommendation on the merits pursuant to 28 U.S.C. § 636(b), Rule 72 of the Federal Rules of Civil Procedure, and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, as amended. Magistrate Judge Manske directed Plaintiff to file an opening brief in the case within thirty days of Defendant's answer. (Dkt. 9). Because Defendant answered on August 11, 2016, Plaintiff's opening brief was due on September 10, 2016. (Dkt. 10). As of today, Plaintiff has not filed an opening brief.

On September 22, 2016, Judge Manske issued an order for Plaintiff to show cause as to why he had not filed an opening brief as directed; Judge Manske ordered that a response be filed by October 6, 2016. (Dkt. 13). Plaintiff failed to respond to this order to show cause, thus Judge Manske filed a report on October 12, 2016 recommending that Plaintiff's suit be dismissed (Dkt. 14). Plaintiff has not filed an objection to this recommendation, nor has he made any other filing since Defendant's answer was filed.

Pursuant to 28 U.S.C. § 636(b) and Rule 72(b) of the Federal Rules of Civil Procedure, a party may serve and file specific, written objections to the proposed findings and recommendations

of the Magistrate Judge within fourteen days after being served with a copy of the Report and Recommendation, and thereby secure a de novo review by the district court. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a Report and Recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).

Plaintiff was properly notified of the consequences of a failure to file objections. To date, Plaintiff has not filed objections to the findings of fact and conclusions of law in the Report and Recommendation. The Court, having reviewed the entire record and finding no plain error, accepts and adopts the Report and Recommendation of the magistrate judge for substantially the reasons stated therein.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge (Dkt. 14) is **APPROVED AND ACCEPTED**.

IT IS ORDERED that all claims and causes of action brought by Plaintiff are hereby **DISMISSED** without prejudice for failure to prosecute.

IT IS FURTHER ORDERED that all relief not expressly granted is hereby **DENIED** and that each party shall bear their own attorney's fees and costs of court.

IT IS FINALLY ORDERED that the case is hereby **CLOSED**.

SIGNED on November 22, 2016.

A handwritten signature in blue ink, appearing to read 'R. Pitman', is written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE